

REMARKS

Claims 20-33 are pending in the Application. Applicant has amended claims 20 and 23 to make more clear what is being claimed. No new matter has been added by the amendment (see, e.g., paragraph 66 at page 17 of the originally filed specification.)

Claims 20-33 have been rejected under the judicially created doctrine of provisional obviousness-type double patenting as being unpatentable over claims 13-22 of co-pending Application No. 10/945,104 and unpatentable over claims 1, 4-6, 30 and 31 of co-pending Application No. 10/807,409. Terminal disclaimers and a Statement under 37 CFR 3.73(b) are enclosed herewith.

Claims 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Moore et al. (U.S. Patent No. 6,114,595) ("Moore.") Applicant respectfully traverses the rejection.

The amendment to claim 20 makes more clear the nature of the bonding of the claim. As was noted in the specification, "the adhesive [is] applied to the 'high points' of the creped structure of the creped structure of the creped nonwoven web." (paragraph 66 at page 17.) This construction is not taught, suggested nor disclosed by Moore.

The Examiner has noted that Moore recites point thermal bonding as a preferred method. Moore, however, does not offer any details as to the nature of that bonding, and certainly does not propose to adhere the high points of the creped structure. In fact, immediately following the language cited by the Examiner, Moore's expressed concern with regard to point thermal bonding is that it "provide[] a suitable bond between the

layers of the composite topsheet which has sufficient integrity to survive the microcreping process yet does not occlude the apertures in the formed film layer.” (Col. 10, lines 34 – 38.) In other words, Moore’s use of point thermal bonding, and the resulting creation of any bonds is before any creping, micro or otherwise, is done (see, e.g., Col. 11, lines 31-39.) Thus Moore cannot have bonding to the high points of the creped structure, as in claim 20, because a creped structure is not formed in Moore when layers are bonded.

Accordingly, it is submitted that the rejection to claim 20 be withdrawn and the claims be allowed to proceed to issuance.

Dependant claims 21 - 22 share all the limitations of independent claim 20. Thus it is submitted that the rejection to these claims be withdrawn for the reasons given above with regard to their independent claims, and claims 21 – 22 be allowed to proceed to issuance.

Claims 20-33 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Palumbo et al. (U.S. Patent No. 6,106,925) (“Palumbo.”) Applicant respectfully traverses the rejection.

Palumbo does not teach, disclose nor suggest having adhesive “applied to the ‘high points’ of the creped structure of the creped structure of the creped nonwoven web” as does claims 20 and 23. Any bonding taught by Palumbo is to the periphery of its perforations, (see e.g., Col. 1, line 63 to Col. 2, line 2, “the upper and lower layers are connected to the intermediate layer substantially only around the perimeters of the perforations, and this permits the elastic film to continue to exhibit its elasticity in at least one direction;” Col. 2, lines 6 to 19: “Thus, according to the present invention...the

upper and lower layers being connected to the intermediate layer substantially only around the perimeters of the perforations.”)

Accordingly, the structure taught by Palumbo teaches bonding of an entirely different nature than that taught by claims 20 and 23.

Therefore, withdrawal of the rejection and allowance of claims 20 and 23 is solicited.

Defendant claims 21 - 22 and 24 - 33 share all the limitations of independent claims 20 and 23 respectively. Thus it is submitted that the rejection to these claims be withdrawn for the reasons given above with regard to their independent claims, and claims 21 – 22 and 24 – 33 be allowed to proceed to issuance.

CONCLUSION

Therefore, for the reasons given above, Applicant submits the application is now in condition for allowance and Applicant respectfully requests early issuance of the Notice of Allowance.

Respectfully submitted,


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